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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/031,863      | 05/06/2002  | Olle Olsson          |                     | 8537             |

7590 01/20/2004  
Brinks Hofer Gilson & Lione  
PO Box 10395  
Chicago, IL 60610

EXAMINER

KERSHTEYN, IGOR

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3745

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/031,863

Applicant(s)

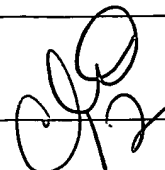
OLSSON, OLLE

Examiner

Igor Kershteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,14,15 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,4-13 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other: .

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 12/19/03 have been fully considered but they are not persuasive.

Claims 1-17 are pending. Claims 1-12 have been amended to overcome claim objections, rejections under 35 USC 112. Claim 2 has been rewritten in independent form.

The above matters is appreciated.

In page 9, Applicant generally states that "there is no suggestion in either Current et al. or Manini to use a compressive force transmitting medium in Current et al.'s device. It appears the improper hindsight and Applicant's own disclosure is the sole motivation for the combination" however, in column 4, lines 33-39, Current et al. teaches the "use a compressive force transmitting medium in Current et al.'s device."

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Current et al. (5,513,467) in view of Manini (3,815,361).

In figures 1-3, Current et al. teach an operating device 10 for closures comprising: a driving device 52, a closed house 34, a first piston-like part 72 and a second piston-like part 106, wherein the first and second piston-like parts are displaceable inside the house 34, and are arranged at a distance from each other inside the house 34, where the driving device 52 is arranged to displace the first piston-like part 72 inside the house 34 and the second piston-like part 106 being connected to an operable element 28 that is connected to a movable closure 12 that moves in response to movement of the second piston-like part 106.

Current et al. don't teach a volume formed in the house between the first and the second piston-like parts filled with a compressive force transmitting medium.

Manini figure 1 teaches an operating device for doors with the use of hydraulic medium for displacing the piston 48.

Since Current et al. and Manini are analogous art because they are from the same field of endeavor, that is the door operating devices art, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to

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modify the door operating device of Current et al. with the use of hydraulic medium for transmitting force to the second pistom as taught by Manini for the purpose of reducing high frictional losses.

***Allowable Subject Matter***

Claims 2, 3, 14, 15, and 17 are allowed.

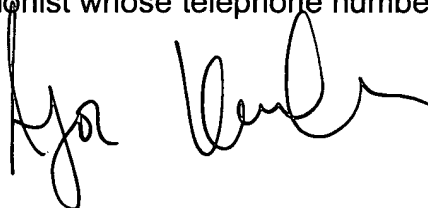
***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is (703) 308 8317. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308 1044. The fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK  
January 12, 2004



Igor Kershteyn  
Patent examiner.  
Art Unit 3745



EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700  
1/16/04